

# KordaMentha

## Restructuring

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Ms Belinda Chiu  
Senior Adviser, Listings Compliance  
ASX Compliance Pty Limited  
20 Bridge Street  
SYDNEY NSW 2000

22 August 2017

Dear Ms Chiu

### **Ten Network Holdings Limited (Administrators Appointed) (Receivers and Managers Appointed) ('TEN')**

We refer to your letter dated 18 August 2017 requesting information relating to TEN's awareness for the purposes of Listing Rule 3.1 that shareholder guarantor Consolidated Press Holdings Pty Limited (CPH) did not intend to extend or increase its support for TEN's credit facilities securities beyond the expiry of TEN's existing facilities in December 2017.

As the matters raised in your letter pre-date our appointment, we have sought a response to your questions from TEN's company secretary.

We have been advised as follows (using your paragraph reference numbers):

1. 2 May 2017.
2. No.
3. TEN considered that, as at that date, the market was not trading on the basis of either of the following assumptions:
  - i. that CPH intended to extend or renew its shareholder guarantee beyond expiry of TEN's facility in December 2017, or
  - ii. that the extension or renewal of CPH's shareholder guarantee was a necessary condition to TEN's ability to secure a new facility.

In relation to the first assumption, the Company did not inform the market at any time (and the Company is not aware that CPH ever informed the market) that CPH had formed the intention to extend or renew its shareholder guarantee of the existing facility beyond its expiry. In addition, certain press coverage of CPH's intentions indicated a contrary intention that CPH wished to sell down and exit its shareholding in TEN.

The Directors considered that TEN was not reliant on the renewed support of all three shareholders to secure a new facility, but that to secure a new facility, it was reliant on either:

- the provision of further guarantees by any one or more of the existing shareholder guarantors, and/or

- new financiers.

Until the Directors received correspondence from shareholder guarantors Illyria Nominees Television Pty Limited ('Illyria') and Birketu Pty Limited ('Birketu') over the weekend before TEN's announcement to the ASX on 13 June 2017, TEN had been actively engaged with Illyria and Birketu on the basis that any future shareholder support for a new facility would be provided by Illyria and Birketu alone.

4. Not applicable.

Should you require further information on this matter, please contact me on 8257 3044 or at [jnettleton@kordamentha.com](mailto:jnettleton@kordamentha.com).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Jenny Nettleton', written over a horizontal line.

Jenny Nettleton  
Administrator



18 August 2017

Mr Mark Korda  
Mr Jarod Villani  
Ms Jenny Nettleton  
Joint Voluntary Administrators  
Korda Mentha

Stuart Thomas  
Ten Network Holdings Limited

By email: [mkorda@kordamentha.com](mailto:mkorda@kordamentha.com); [jvillani@kordamentha.com](mailto:jvillani@kordamentha.com); [jnettleton@kordamentha.com](mailto:jnettleton@kordamentha.com); [sthomas@networkten.com.au](mailto:sthomas@networkten.com.au)

#### **TEN Network Holdings Limited (“TEN”) Aware Letter**

ASX Limited (“ASX”) refers to the following.

- A. TEN’s existing \$200 million loan facility agreement with Commonwealth Bank of Australia expiring on 23 December 2017, and guaranteed by three substantial holders of TEN (the “Loan”).
- B. A Sydney Morning Herald article entitled “Ten’s Board failed to update market for four weeks after Packer walked” dated 15 August 2017 (“Media Article”), alleging TEN was advised in early May that Mr James Packer (Consolidated Press Holdings Limited (“CPH”)) was not willing to guarantee future financing options crucial to the network’s survival.
- C. TEN’s announcement lodged on the ASX Market Announcements Platform and released at 12:53PM AEST on 26 May 2017 entitled “Response to ASX Price Query” that included a statement that TEN confirms it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
- D. Listing rule 3.1, which requires a listed entity to give ASX immediately any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s securities.
- E. The definition of “aware” in Chapter 19 of the Listing Rules, which states that:

*“an entity becomes aware of information if, as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought to reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity”*

and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1-3.1B *“When does an entity become aware of information?”*.

- F. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure provided that each of the following are satisfied.

*“3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following 5 situations applies:*

- It would be a breach of a law to disclose the information;*
- The information concerns an incomplete proposal or negotiation;*
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- The information is generated for the internal management purposes of the entity; or*
- The information is a trade secret; and*

*3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

*3.1A.3 A reasonable person would not expect the information to be disclosed.”*

G. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule”.

Having regard to the above, ASX asks TEN to respond separately to each of the following questions and provide the following confirmations in a format suitable for release to the market in accordance with Listing Rule 18.7A.

1. When did TEN first become aware CPH was no longer intending to extend or increase its support for TEN’s credit facilities beyond the current Loan (“Withdrawal of Support”)?
2. Does TEN consider CPH’s Withdrawal of Support to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
3. If the answer to question 2 is “no”, please explain the basis for that view and include considerations TEN made in respect to not disclosing CPH’s Withdrawal of Support at the time that TEN became aware of this.
4. If the answer to question 2 is “yes”, please explain why TEN did not make an announcement to ASX about CPH’s Withdrawal of Support at the time that TEN became aware of this.

#### **When and where to send your response**

This request is made under, and in accordance with, Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by not later than 9:30AM AEST on Tuesday, 22 August 2017.



You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, TEN's obligation is to disclose the information "immediately". This may require the information to be disclosed before the deadline set out in the previous paragraph.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

*[Sent electronically without signature]*

Belinda Chiu  
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